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Druckman & Blatt, P.C.

Attorneys for Defendant

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

**STEPHANIE GONZALES,**

Plaintiff,

CV 10-6362-HO

DEFENDANT'S NOTICE OF REMOVAL

v.

**BEST BUY STORES, LIMITED  
PARTNERSHIP doing business as  
Best Buy,**

Defendant.

TO: The United States District Court for the District of Oregon:

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant, by its undersigned counsel, hereby removes this action from the Circuit Court of the State of Oregon for the County of Marion to the United States District Court for the District of Oregon.

In support of its Notice of Removal, defendant states as follows:

1. On or about October 6, 2010, plaintiff commenced this action in the Circuit Court of the State of Oregon for the County of Marion by filing a complaint, entitled "Stephanie Gonzales, Plaintiff, v. Best Buy Stores, Limited Partnership, doing business as Best Buy, Defendant," Case No. 10C21602. The Complaint purports to allege claims for sex discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq ("Title VII"), and ORS 659A.030.

2. On October 8, 2010, plaintiff served defendant with Summons and Complaint. Removal is timely in that fewer than 30 days have elapsed since defendant was served with the Summons and Complaint. 28 U.S.C. § 1446(b).

3. True and correct copies of all process and pleadings served upon defendant to date are attached hereto and marked as indicated below:

- a. Summons - Exhibit 1; and
- b. Complaint - Exhibit 2.

4. Plaintiff's claim under Title VII is one over which this court has original jurisdiction under 28 U.S.C. § 1331 in that it is a civil action arising under the laws of the United States. The court has supplemental jurisdiction under 28 U.S.C. § 1337 over plaintiff's Oregon state law claim. The

above-named action is one that may be removed to this court pursuant to 28 U.S.C. § 1441(b)-(c).

5. This action is one over which this court also has original jurisdiction under 28 U.S.C. § 1332 in that it is a civil action in which the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

6. Complete diversity of citizenship exists.

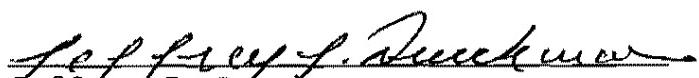
Defendant is informed and believes that plaintiff was at the time of the filing of the Complaint and still is a citizen of the state of Oregon. Defendant is a limited partnership organized under the laws of the commonwealth of Virginia with its principal place of business in Minnesota, and not in Oregon.

7. Defendant has not taken any action in the Circuit Court of the State of Oregon for the County of Marion that would prejudice its right to removal.

WHEREFORE, defendant removes the above action from the Circuit Court of the State of Oregon for the County of Marion to the United States District Court for the District of Oregon.

Dated this 29th day of October, 2010.

DRUCKMAN & BLATT, P.C.

  
Jeffrey J. Druckman  
OSB No. 79214  
jeff@jjdlaw.com

Attorneys for Defendant

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
IN AND FOR THE COUNTY OF MARION**

7 STEPHANIE GONZALEZ, Civil Case No. 10C21602  
8 Plaintiff, }  
9 v. } SUMMONS  
0 BEST BUY STORES, LIMITED PARTNERSHIP  
1 doing business as BEST BUY,  
2 Defendant.

3 TO: CT Corporation System, Registered Agent, Best Buy Stores Limited Partnership, dba  
Best Buy, 388 State Street, Ste 420, Salem, OR 97301

**SIMMONS**

You are hereby required to appear and defend the complaint filed against you in the above entitled cause within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY**

You must "appear" in this case or the other side will win automatically. To "appear", you must file with the court a legal paper called a "motion" or "answer". The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

LAW OFFICE OF BRADY MERTZ  
*/s/ Brady Mertz*

**Brady Mertz, OSB #97081**  
**Attorney for Plaintiff**

LAW OFFICE OF BRADY MERTZ  
2285 Liberty Street NE  
Salem, OR 97301  
(503) 385-0121  
fax: 503-375-2218

1 STATE OF OREGON )  
2 County of Marion ) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled case.

LAW OFFICE OF BRADY MERTZ

Brady Mertz, OSB #97081  
**ATTORNEY OF RECORD FOR PLAINTIFF**

**TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS:** You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the defendant, and to make your proof of service which you shall attach hereto.

LAW OFFICE OF BRADY MERTZ

/s/ Brady Mertz

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**Brady Mertz, OSB #97081  
ATTORNEY OF RECORD FOR PLAINTIFF**

LAW OFFICE OF BRADY MERTZ  
2285 Liberty Street NE  
Salem, OR 97301  
(503) 385-0121  
fax: 503-375-2218

TRUE COPY  
SJM

STATE OF OREGON  
Marion County Circuit Courts  
OCT 06 2010  
**ENTERED**

STATE OF OREGON  
Marion County Circuit Courts  
OCT 06 2010  
**FILED**

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
IN AND FOR THE COUNTY OF MARION**

7 STEPHANIE GONZALES,

**Plaintiff.**

V.

**BEST BUY STORES, LIMITED  
PARTNERSHIP** Doing business as **BEST BUY**

**12**                      **Defendant.**

**Civil Case No. 10 C  
CIVIL COMPLAINT**

## **Gender Discrimination; and, unlawful employment practices**

**Claim for \$500,000.00**

**Claim NOT subject to  
Mandatory Arbitration**

**Jury trial requested**

14 COMES NOW Plaintiff Stephanie Gonzales, hereinafter referred to as  
15 "Plaintiff", and alleges as follows:

1

Plaintiff, a female, is presently employed by the Defendant, Best Buy Stores, Limited Partnership doing business as Best Buy (hereinafter "Defendant"), from the year 2006. Plaintiff was employed in a variety of sales and management positions during her term of employment with Defendant. Defendant is a foreign corporation licensed to do business in the State of Oregon and doing business in the City of Salem, Oregon. Defendant employs more than 200. At all material times the Defendant has engaged in commerce or the production of goods for commerce, or had employees handling, selling or otherwise working on goods or material or equipment which have been moved in commerce. At all material times, Defendant

1 has had an annual gross volume of sales made or business done of not less than  
2 \$500,000.00. At all times material herein Tim O'Donnell was an employee and the  
3 general manager of the Best Buy Lancaster and was working within his course and  
4 scope as an employee of Defendant, and Defendant is vicariously liable for Tim  
5 O'Donnell's actions. Defendant is an employer within the meaning of ORS  
6 652.310.

7 2.

8 In August of 2008, Plaintiff was the only female sales supervisor at the Best  
9 Buy Lancaster store in Salem, Oregon. In August and September of 2008, despite  
10 Plaintiff's seniority at Best Buy, the Defendant via Tim O'Donnell excluded the  
11 Plaintiff from training opportunities that only other male employees were given at  
12 that time. Plaintiff was told that she didn't have "management potential" because  
13 she had just had children and had come back from medical leave and would not  
14 have the availability of other male employees.

15 3.

16 In April of 2009, the Defendant restructured the management at Best Buy  
17 Lancaster and demoted the Plaintiff. Another male employee replaced the  
18 Defendant in her role as a supervisor. When Tim O'Donnell was asked by the  
19 Plaintiff why she was not kept in her same position from the restructure, she was  
20 told that the male employee had received the training and was therefore "more  
21 qualified" for the more senior supervisor position despite this man not having been a  
22 supervisor for as long as the Plaintiff.

23 4.

24 In 2009 the Defendant via Tim O'Donnell was offered a job to the Plaintiff to  
25 become a senior supervisor. The Plaintiff, concerned about her ability to perform  
26 all of the tasks of this new employment opportunity, asked about her opportunity to

1 be fully trained in the job before she was to take it – the same training the male  
2 employees of Best Buy had received earlier in the year. She was told by her  
3 manager that she would not be provided training, that the training was on the job,  
4 and that if she did fail in the job she would be fired from Best Buy. She was also  
5 told that she had "two hours" in which to make the decision to take the job or not  
6 take the job. Concerned about losing her job, Plaintiff denied the job. This job  
7 was later provided to a male employee who then did receive training after the job  
8 was offered to him.

9                                 5.

10                  Defendant, through their denial of Plaintiff's promotion and opportunities to  
11 obtain training in which to be able to accept any promotion, intentionally  
12 discriminated against the Plaintiff, and Plaintiff's gender was a motivating factor in  
13 Defendant's decisions related to the promotions. The male employees were not  
14 subjected to this same behavior by the Defendant.

15                                 6.

16                  Defendant deliberately created and maintained a hostile work environment for  
17 Plaintiff because of her gender, and in retaliation for Plaintiff's complaints regarding  
18 Defendant's discrimination. The male employees were not subjected to this same  
19 behavior by the Defendant.

20                                 7.

21                  Defendant's refusal to promote plaintiff, and to provide the Plaintiff the same  
22 opportunities for training as the male employees, and Defendant's gender-specific  
23 statements about the Plaintiff and others, created conditions sufficiently severe and  
24 pervasive to alter the conditions of employment, creating an abusive work  
25 environment. The male employees were not subjected to this same behavior by  
26 the Defendant.

1

8.

2           Defendant's conduct to Plaintiff was intentional and malicious, or was with  
3           reckless disregard of Plaintiff's state and federally protected rights.

4

9.

5           On July 8, 2010 the Bureau of Labor and Industries of the State of Oregon  
6           (BOLI) issued a Notice of Private Right of Action under ORS 659.030 concerning  
7           Plaintiff's claims of gender discrimination.

8

10.

9           Plaintiff is entitled to an award of front pay for lost future wages,  
10          compensation and benefits.

11

12                         **FIRST CLAIM FOR RELIEF**  
13                             **GENDER DISCRIMINATION**

14

11.

15          Plaintiff realleges paragraphs 1 through 10.

16

12.

17          The Defendant violated Title VII of the Civil Rights Act, as amended by the  
18          Civil Rights Act of 1991, by refusing to promote the plaintiff based on her gender, by  
19          subjecting Plaintiff to a hostile work environment based on her gender, and by  
20          retaliating against Plaintiff because of her complaint about said discrimination.

21

13.

22          Plaintiff is entitled to her compensatory damages for emotional pain and  
23          suffering, and punitive damages via 42 USC 1981a(b)(3), and attorney's fees  
24          pursuant to 42 USC 1988(b), et seq.

25          ///

26          ///

**SECOND CLAIM FOR RELIEF**

14.

Plaintiff realleges paragraphs 1 through 10.

15.

6 The Defendant violated ORS 659.030 by refusing to promote the plaintiff  
7 based on her gender, by subjecting Plaintiff to a hostile work environment based on  
8 her gender, and by retaliating against Plaintiff because of her complaint about said  
9 discrimination.

16.

11 Plaintiff is entitled to her non-economic damages for emotional pain and  
12 suffering, and attorney's fees via ORS 659.121. Plaintiff reserves the right to  
13 amend her complaint pursuant to ORS 18.535.

**WHEREFORE**, Plaintiff prays for judgment against the Defendant as follows:

15

**16 First Claim for Relief:**

17 (a) Lost wages, benefits, and prejudgment interest, in an amount to be  
18 proven at trial but not to exceed \$250,000.00;

19 (b) Compensatory damages for emotional pain and suffering in an amount  
20 to be proven at trial but not to exceed \$250,000.00;

21 (c) An order compelling Defendant to promote Plaintiff to the supervisory  
22 role with training, or in the alternative an order of front pay for lost future wages and  
23 benefits:

24 (d) Plaintiff's attorney's fees, costs and disbursements incurred herein;  
25 and.

(e) For such other legal or equitable relief as the court deems just.

1           **Second Claim for Relief:**

- 2           (a) Noneconomic damages in an amount to be proven at trial but not to  
3           exceed \$250,000.00;  
4           (b) Economic damages in an amount to be proven at trial but not to  
5           exceed \$250,000.00;  
6           (c) Plaintiff's attorney's fees, costs and disbursements incurred herein;  
7           and,  
8           (d) For such other legal or equitable relief as the court deems just.

9

10          DATED this 6<sup>th</sup> day of September, 2010.

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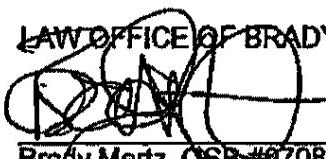
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LAW OFFICE OF BRADY MERTZ  
  
Brady Mertz, OSG #970814  
Attorney for Plaintiff

I hereby certify that I served the foregoing  
**Defendant's Notice of Removal** on:

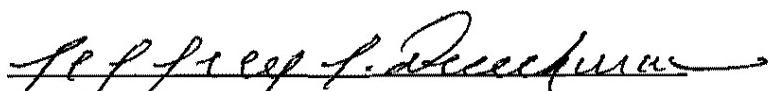
Brady Mertz  
2285 Liberty St. NE  
Salem, Oregon 97301

Attorney for Plaintiff

by the following indicated method or methods:

- by **mailing** a full, true, and correct copy thereof in a sealed, first-class postage-prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- by causing a full, true, and correct copy thereof to be **hand-delivered** to the attorney at the attorney's last-known office address listed above on the date set forth below.
- by **electronic filing** with the District Court's CM/ECF system. The CM/ECF system generated Notice of Electronic Filing constitutes proof of service upon a Filing User in accordance with the Fed. R. Civ. P. 5(d).
- by **faxing** a full, true, and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth below.

Dated this 29th day of October, 2010.

  
Jeffrey J. Druckman

Attorney for Defendant